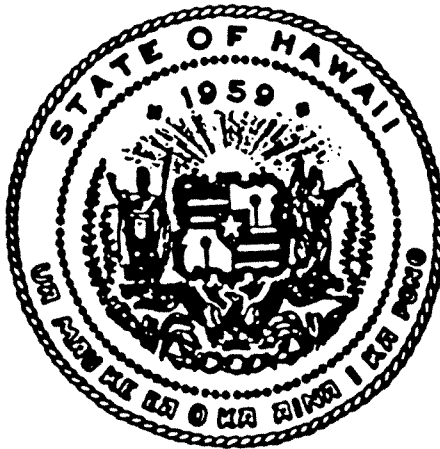


State of Hawaii

APPRENTICESHIP LAW
(Chapter 372, H.R.S.)

and

RELATED ADMINISTRATIVE RULES
(Chapters 30 and 31, Title 12)



Compiled by
APPRENTICESHIP DIVISION
Department of Labor and Industrial Relations
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**HAWAII REVISED STATUTES
CHAPTER 372
APPRENTICESHIP**

SECTION

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§372-1 Application of chapter. This chapter shall apply to a person, firm, corporation, or craft only after such person, firm, corporation, or craft has voluntarily elected to conform with its provisions. [L Sp 1941, c 23, §6; RL 1945, §4147; RL 1955, §89-1]

§372-2 Definitions. As used in this chapter:

- (1) "Department" means the department of labor and industrial relations.
- (2) "Director" means the director of labor and industrial relations.
- (3) "Apprentice" means a person participating, through employment, in an approved schedule of work experience supplemented by related instruction and who is a party to an apprenticeship agreement registered with the department in accordance with this chapter.
- (4) "Apprenticeship agreement" means a written agreement which conforms to standards established under this chapter and is entered into between an apprentice and (A) an employer, (B) an association of employers, (C) an organization of employees, or (D) a joint committee representing employers and employees. [L Sp 1941, c 23, pt of §54, 5; am L 1943, c 158, pt of §2; RL 1945, pt of §4145, 4146; am L 1945, c 22, §1(1); am L 1955, c 31, §1(b); RL 1955, §89-2; am L 1959, c 14, §1; am L 1967, c 20, §1(a)]

§372-3 Standards for agreements. "Standards for apprenticeship agreements" are as follows:

- (1) A statement of the trade or craft to be taught and the required months or hours for completion of apprenticeship which shall not be less than twelve months or two thousand hours of reasonably continuous employment;
- (2) A statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process;
- (3) A statement of the number of hours to be spent in related instruction which shall not be less than one hundred and forty-four hours per year; provided that the department of labor and industrial relations may, in the best interest of apprenticeship, reduce the hours of related instruction;

- (4) A statement that apprentices shall be not less than sixteen years of age;
- (5) A statement of the progressively increasing scale of wages to be paid the apprentice;
- (6) Provision for a period of probation during which the director of labor and industrial relations shall be directed to terminate an apprenticeship agreement at the request in writing of any party thereto;
- (7) Provision that after the probationary period the director may terminate an apprenticeship agreement upon agreement of the parties thereto;
- (8) Provision that the services of the department may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where the differences cannot be adjusted locally or in accordance with the established trade procedure;
- (9) Provision to specify the ratio of apprentice to journeyman;
- (10) Provision that if an employer is unable to fulfill his obligation under the apprenticeship agreement, he may transfer the obligation to another employer;
- (11) Such additional standards as may be prescribed in accordance with this chapter.

An apprentice who, prior to entering into an agreement, has had training or experience or both in the trade or craft in which he is employed as an apprentice may be granted full or partial credit for the training or experience on the recommendation of the employer or the joint apprenticeship committee with the approval of the director. [L Sp 1941, c 23, pt of §4; am L 1943, c 158, pt of §2; RL 1945, pt of §4145; am L 1955, c 31, §1(c); RL 1955, §89-3; am L 1959, c 14, §2; am L 1967, c 20, §1(b); am L 1978, c 67, §1]

§372-4 Apprenticeship council. The director of labor and industrial relations may establish within the department of labor and industrial relations a committee to be known as the apprenticeship council which shall sit in an advisory capacity to him on matters within the jurisdiction of the department relating to apprenticeship programs. The membership and organization of the council shall be determined by the director. The members of the council shall be appointed and removed at the pleasure of the director. The director or his subordinate officer in charge of the apprenticeship program shall act as secretary of the council. [L Sp 1941, c 23, pt of §1; RL 1945, §4141; RL 1955, §89-4; am L 1967, c 20, §1(c)]

§372-5 Powers and duties of director. The director of labor and industrial relations shall:

- (1) Establish standards for apprenticeship agreements in conformity with this chapter;
- (2) Provide assistance for the development of on-the-job training programs in nonapprenticeable occupations;
- (3) Encourage and promote the making of apprenticeship agreements conforming to the standards established by this chapter;

- (4) Register such apprenticeship agreements as are in the best interest of apprenticeship and which conform to the standards established by this chapter;
- (5) Keep a record of apprenticeship agreements and upon performance thereof issue certificates of completion of apprenticeship;
- (6) Terminate or cancel any apprenticeship agreements in accordance with the agreements;
- (7) Bring about the settlement of differences arising out of the apprenticeship agreement where the differences cannot be otherwise adjusted locally;
- (8) Issue such rules and regulations as may be necessary to carry out the intent and purpose of this chapter;
- (9) Appoint personnel as are necessary in the execution of the functions required under this chapter; and
- (10) Perform other duties as are necessary to carry out the intent and purpose of this chapter. [L Sp 1941, c 23, pt of §1; am L 1943, c 158, §1; RL 1945, §4142; RL 1955, §89-5; am L 1963, c 55, §1; am L 1967, c 20, §1(d)]

Cross References

Rulemaking, chapter 91 and §371-7.

§372-6 Related instruction and coordination of instruction. Related instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for the instruction shall be the responsibility of the community college division of the University of Hawaii. [L Sp 1941, c 23, §2; RL 1945, §4143; am L 1955, c 31, §1(a); RL 1955, §89-6; am L 1965, c 138, §1; am L 1967, c 20, §1(e); HRS §372-6; am L 1990, c 101, §1]

§372-7 Joint apprenticeship committees. Local joint apprenticeship committees may be approved by the director of labor and industrial relations in any trade, group of trades, or in trade areas, whenever the apprentice training needs of the trade or group of trades justifies the establishment of the committees. The joint apprenticeship committees shall be composed of an equal number of persons known to represent the interest of employers and employees, respectively. Subject to the review of the director and in accordance with the standards established by this chapter and by the director, the committees shall devise standards for apprenticeship agreements and give assistance to the operation and further development of apprenticeship in their respective trade and localities. [L Sp 1941, c 23, §3; RL 1945, §4144; RL 1955, §89-7; am L 1967, c 20, §1(f)]

§372-8 State-federal cooperation. The department of labor and industrial relations may promote the administration of this chapter by accepting and utilizing information, services, and facilities made available to it by the federal committee on apprenticeship; and the department shall cooperate with the federal committee on apprenticeship to the

fullest extent consistent with this chapter. [L 1945, c 22, §1(2); RL 1955, §89-8; am L 1967, c 20, §1(g)]

**ADMINISTRATIVE RULES
TITLE 12 DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS**

CHAPTER 30

APPRENTICESHIP PROGRAMS

- §12-30-1 Definitions
- §12-30-2 Purpose and scope
- §12-30-3 Eligibility for registration
- §12-30-4 Registration procedures
- §12-30-5 Criteria for apprenticeable occupations
- §12-30-6 Standards for apprenticeship
- §12-30-7 Apprenticeship agreement
- §12-30-8 Cancellation or temporary suspension of apprenticeship agreement
- §12-30-9 Deregistration of apprenticeship program
- §12-30-10 Hearings
- §12-30-11 Reinstatement of program registration
- §12-30-12 Complaints

Historical Note: Chapter 30 of title 12 is based substantially upon Regulation XLIV, Relating to Apprenticeship Programs, Department of Labor and Industrial Relations, State of Hawaii. [Eff. 7/23/78; R Jul 30 1981]

§12-30-1 Definitions. As used herein:

"Apprentice" shall be as defined in section 372-2, HRS.

"Apprenticeship agreement" shall be as defined in section 372-2, HRS.

"Apprenticeship committee" means those persons designated by the sponsor to act for it in the administration of the program. A "joint" committee is composed of an equal number of representatives of the employers and of the employees represented by a bona fide collective bargaining agent. A "unilateral" or "non-joint" committee is composed of representatives of the employers and does not include a bona fide collective bargaining agent as a participant.

"Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

"Apprenticeship standard" means the written document which sets forth the minimum labor standards required by law for training apprentices in a specified industry, area, or plant. By reference, it is a part of the apprenticeship agreement. There are two basic types of standards — one encompasses joint employer-union participation in the program; and

one, referred to as unilateral, where responsibility for apprenticeship is assumed by either management or the union, but not both.

"Department" shall be as defined in section 372-2, HRS.

"Director" shall be as defined in section 372-2, HRS.

"Employer" means any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

"Registration of an apprenticeship agreement" means the acceptance and recording of the agreement by the department as evidence of the participation of the apprentice in a particular registered apprenticeship program.

"Registration of an apprenticeship program" means the acceptance and recording of such program by the department as meeting the basic standards and requirements of the department for approval of such program. Written approval shall be given by the department.

"Related instruction" means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the trade.

"Rule" shall be as defined in section 91-1, HRS.

"Sponsor" means any person, corporation, association, committee, or organization operating an apprenticeship program and in whose name the program is approved and registered. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-2)

§12-30-2 Purpose and scope. (a) Section 372-5, HRS, authorizes and directs the director to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and to extend the application of such standards by requiring the inclusion thereof in apprenticeship programs.

(b) The purpose of this chapter is to set forth rules to safeguard the welfare of apprentices, and to extend the application of such standards by prescribing rules concerning the registration of acceptable apprenticeship programs. These rules cover the standards of apprenticeship, registration, cancellation and deregistration of apprenticeship programs and of apprenticeship agreements, and matters relating thereto.

(c) The provisions of this chapter shall apply to a person, firm, corporation, association, committee, organization, or craft only after such person, firm, corporation, association, committee, organization, or craft has elected to comply with its provisions. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §§372-3, 372-5)

§12-30-3 Eligibility for registration. (a) No apprenticeship program or agreement shall be eligible for registration unless it conforms with section 12-30-6; Administrative Rules, section 12-31-3; and chapter 372, HRS.

(b) Apprenticeship programs and standards of employers and unions, except for the building and construction industry, which jointly form a sponsoring entity on a multi-state basis and are registered by any other recognized state apprenticeship agency or council or by the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be

accorded registration or approval reciprocity by the department if such reciprocity is requested by the sponsoring entity. All program registrations shall conform to subsection (a). [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-4 Registration procedures. (a) Under a program sponsored for registration by an employer or employers' association, where the standards, collective bargaining agreement, or other instrument provide for participation by a union in any matter in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgment of union agreement to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its apprenticeship program for registration. The department shall provide a period of sixty days for receipt of union comments, before final action or approval.

(b) Where the employees to be trained have no collective bargaining agent, an apprenticeship program may be proposed for registration by an employer or group of employers.

(c) If the sponsor is involved in any abnormal labor situation such as a strike, lockout, or other similar situation, the approval of an application for an apprenticeship program may be withheld by the department until such time as the department determines that the situation is resolved.

(d) If it is determined by the department that a sponsor is in violation of any federal or state labor laws or rules and regulations affecting registration of programs, the approval of the application for an apprenticeship program may be withheld by the department until the department determines that such issues are resolved.

(e) Approved apprenticeship programs shall be accorded registration, evidenced by written approval by the department.

(f) Any proposed modification or change to registered programs shall be promptly submitted to the department, and if approved, shall be recorded and acknowledged as a revision of such programs. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-5 Criteria for apprenticeable occupations. An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:

- (1) It is customarily learned in a practical way through a structured systematic program of on-the-job supervised training;
- (2) It is clearly identified and commonly recognized throughout an industry;
- (3) It involves manual, mechanical, or technical skills and knowledge which require not less than twelve months or two thousand hours of reasonably continuous employment; and
- (4) It requires related instruction to supplement the on-the-job training. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-6 Standards of apprenticeship. An apprenticeship program shall be eligible for registration by the department if it conforms to the following standards:

- (1) The program is an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in the apprenticeable occupation, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program;
- (2) The program standards contain the equal opportunity pledge prescribed in section 12-31-3(b), Administrative Rules, and, when applicable, an affirmative action plan and a selection method in accordance with sections 12-31-4 and 12-31-6, Administrative Rules, and provisions concerning the following:
 - (A) A statement of the trade or craft to be taught and the required hours for completion of apprenticeship which shall be not less than twelve months or two thousand hours of reasonably continuous employment, consistent with training requirements as established by industry practice;
 - (B) A statement of the number of hours or months to be spent by the apprentice in work on the job and an outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;
 - (C) A statement of the number of hours to be spent in organized related instruction in technical subjects related to the trade, approved by the state department of education or by the community college system, University of Hawaii, which shall be not less than one hundred and forty-four hours per year and whether or not the required school time shall be compensated; provided that the department may, in the best interest of apprenticeship, reduce the number of hours of related instruction; which instruction may be given in a classroom through trade or industrial courses, or by correspondence courses of equivalent value, or other forms of self-study approved by the department;
 - (D) A statement that apprentices shall be not less than sixteen years of age;
 - (E) A statement of the progressively increasing scale of wages to be paid the apprentice consistent with the skill acquired, the entry wage to be not less than the minimum wage prescribed by the Federal Fair Labor Standards Act of 1938, as amended, section 6 thereof, (29 U.S.C., section 206), where applicable, unless a higher wage is required by other applicable federal or state law, administrative rules, or by bargaining agreement;
 - (F) A provision for a probationary period reasonably related to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship;
 - (G) A provision that during the period of probation, the director

- shall cancel an apprenticeship agreement at the request in writing of any party thereto;
- (H) A provision that after the probationary period, the director may cancel an apprenticeship agreement:
 - (i) Upon agreement of the parties thereto;
 - (ii) At the request of the apprentice;
 - (iii) Upon recommendation by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action; or
 - (iv) For good cause on the director's own motion after giving all parties notice and opportunity to be heard;
 - (I) A provision that the services of the department may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where the differences cannot be adjusted by the parties or in accordance with the established trade procedure, and that any such differences which cannot be amicably settled by the parties may be submitted to the director for final decision;
 - (J) A provision for the numeric ratio of apprentice to journeyworkers consistent with proper supervision, training, safety, and reasonable continuity of employment, and applicable provisions in collective bargaining agreements, in relation to which it is recommended that a ratio of no more than one apprentice for each journeyworker regularly employed by a participating employer in each apprenticeable occupation be established;
 - (K) A provision for transfer of employer's training obligation when the employer is unable to fulfill the obligation under the apprenticeship agreement, to another employer under the same program with the consent of the apprentice and apprenticeship committee or program sponsor, with full credit to the apprentice for satisfactory time and training earned;
 - (L) A provision for minimum qualifications required by a sponsor for persons entering the apprenticeship program;
 - (M) A provision for granting of an advanced standing or credit for previously acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted;
 - (N) A provision that the apprentice shall be provided adequate and safe equipment and facilities for training and supervision and safety training on the job and in related instruction, and that the employer shall insure that the apprentice is trained in facilities and other environments that are in compliance with federal and state occupational safety and health standards;
 - (O) A provision for the placement of an apprentice under a written apprenticeship agreement, which shall directly, or by reference, incorporate the standards of the program as part of the agreement;

- (P) A provision for periodic review and evaluation of the apprentice's progress in job performance and in related instruction by the program sponsor and the department, and the maintenance of appropriate progress records;
- (Q) A provision for recognition of successful completion of apprenticeship evidenced by an appropriate certificate;
- (R) Identification of the registration agency as apprenticeship division, department of labor and industrial relations;
- (S) Assurance of qualified training personnel and adequate supervision on the job;
- (T) A provision for the registration, cancellation, and deregistration of the program, and requirement for the prompt submission of any modification or revision thereto;
- (U) A provision for registration of apprenticeship agreements and revisions, notice to the department of persons who have successfully completed apprenticeship programs, and notice of cancellations and suspensions of apprenticeship agreements and causes therefor;
- (V) A statement of the committee's organization and functions when the program sponsor is a joint apprenticeship committee;
- (W) The name and address of the appropriate authority under the program to receive, process, and make disposition of complaints; and
- (X) A provision that apprenticeship standards shall comply with federal and state laws, and rules pertaining to apprenticeship. [Eff. Jul 30 1981] (Auth: HRS §372-3) (Imp: HRS §372-3)

§12-30-7 Apprenticeship agreement. (a) Apprentices shall be individually registered under a registered program. Registration shall be effected by filing copies of each apprenticeship agreement with the department.

(b) The apprenticeship agreement shall contain explicitly or by reference:

- (1) Name and signature of the contracting parties (apprentice and the program sponsor or employer) and the signature of a parent or guardian if the apprentice is a minor;
- (2) The date of birth of apprentice;
- (3) Name and address of the program sponsor and registration agency;
- (4) A statement of the trade or craft in which the apprentice is to be trained and the beginning date and term of apprenticeship; and
- (5) A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended during the period of the agreement. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-8 Cancellation or temporary suspension of apprenticeship agreement. The department may cancel or temporarily sus-

pend an apprenticeship agreement upon concurrence of the parties thereto, or at the request of the apprentice, or upon recommendation by the sponsor, or, on the director's own motion.

- (1) On request of the apprentice or upon agreement of the parties, the director may cancel or temporarily suspend the registration of an apprenticeship agreement by a written acknowledgment of such request to all parties affected, and giving the effective date of such cancellation or temporary suspension.
- (2) The director may cancel or temporarily suspend the registration of an apprenticeship agreement upon recommendation of the sponsor, or on the director's own motion. The director shall notify the appropriate parties in writing.
 - (A) The notice shall be sent by certified mail, return receipt requested, shall state the reasons for the cancellation or suspension action, and shall state that the apprenticeship agreement will be cancelled or suspended unless, within ten workdays of receipt of the notice, the apprentice or sponsor contest the proposed action.
 - (B) If a hearing is requested, the hearing shall be held in accordance with section 12-30-10. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-9 Deregistration of apprenticeship program. (a) Deregistration of a program may be by the voluntary action of the sponsor or, upon good cause, by the department through deregistration proceedings in accordance with the provisions of this chapter.

(b) The director may cancel the registration of an apprenticeship program by a written acknowledgment of a sponsor's request stating, but not limited to, the following:

- (1) The registration is cancelled at sponsor's request with notice of intent to all parties affected, and giving the effective date of such cancellation.
- (2) That within fifteen workdays of the date of the acknowledgment, the sponsor shall notify all apprentices of such cancellation and the effective date and that such cancellation automatically deprives the apprentices of their individual registration.

(c) Deregistration by department.

- (1) Deregistration proceedings may be undertaken when it appears that the apprenticeship program is not conducted, operated, or administered in accordance with the registered standards, chapter 372, HRS, or this chapter; whereupon, the director shall so notify the program sponsor in writing.
- (2) The notice shall be sent by certified mail, return receipt requested, and shall state that the program will be deregistered and the cause therefor unless corrective action is taken within thirty days upon receipt of notice.
- (3) Upon request by the sponsor for good cause, the thirty-day period may be extended for up to one additional thirty-day period. During the period for correction, the sponsor shall be assisted in every reasonable way by the department.

- (4) If the required action is not taken within the allotted time, the director shall send a notice to the sponsor by certified mail, return receipt requested, stating the following:
- (A) The notice is sent pursuant to this subsection;
 - (B) That certain deficiencies were called to the sponsor's attention and remedial actions requested;
 - (C) That the program will be deregistered unless, within fifteen workdays of receipt of notice, the sponsor requests a hearing; and
 - (D) If a hearing is not requested by the sponsor, the program will be automatically deregistered.
- (5) Upon the sponsor's request, the director shall convene a hearing in accordance with section 12-30-10.
- (6) In each case in which deregistration is ordered, the director shall notify the sponsor.
- (7) Every order of deregistration shall contain a provision that the department shall, within fifteen workdays of the effective date of the order, notify all registered apprentices of the deregistration of the program, the effective date, and that such action automatically deprives the apprentices of their individual registration. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-10 Hearings. (a) All hearings required by this chapter shall be held in accordance with chapter 91, HRS.

(b) The director or an authorized representative shall have the responsibility of giving notice of hearings and conducting and regulating the course of the hearings. Every party shall have the right to counsel and a fair opportunity to present the party's case, including such cross-examination as may be appropriate under the circumstances. The director or an authorized representative shall make every reasonable effort to obtain all pertinent facts and shall render a final decision based on the findings.

(c) Any person aggrieved by the final decision of the department shall be entitled to judicial review as provided by section 14 of chapter 91, HRS. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-11 Reinstatement of program registration. Any apprenticeship program deregistered pursuant to chapter 372, HRS, and this chapter, may be reinstated upon presentation of adequate evidence that the apprenticeship program will be operated in accordance with chapter 372, HRS, and this chapter. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-30-12 Complaints. (a) Any complaint concerning discrimination or other equal opportunity matters shall be submitted, processed, and resolved in accordance with state or federal equal employment opportunity laws.

(b) Any controversy or difference arising under an apprenticeship agreement which cannot be resolved by the parties, or which is not covered by a collective bargaining agreement, may be submitted to the

department for review. Matters covered by a collective bargaining agreement are not subject to such review. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

**ADMINISTRATIVE RULES
TITLE 12 DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS**

CHAPTER 31

**A STATE PLAN FOR EQUAL EMPLOYMENT
OPPORTUNITY IN APPRENTICESHIP PROGRAMS**

- §12-31-1** Definitions
- §12-31-2** Scope and purpose
- §12-31-3** Equal opportunity standards
- §12-31-4** Affirmative action plans
- §12-31-5** Goals and timetables
- §12-31-6** Selection of apprentices
- §12-31-7** Selection on basis of rank from pool of eligible applicants
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Historical Note: Chapter 31 of title 12 is based substantially upon Regulation XLV, entitled "Relating to a State Plan for Equal Employment Opportunity in Apprenticeship Programs", Department of Labor and Industrial Relations. [Eff. 11/4/78; R Jul 30 1981]

§12-31-1 Definitions. As used in this chapter:

"Department" means the department of labor and industrial relations.

"Director" means the director of the department of labor and industrial relations.

"Employer" means any person or organization employing an apprentice whether or not such person or organization is a party to an appren-

ticeship agreement with the apprentice.

"Minority," as used in Title 29, CFR 30, includes Blacks not Hispanic, American Indian or Alaskan Native, Asian or Pacific Islander, and Hispanic (including Latin Americans, Mexican Americans, and Puerto Ricans.

"Secretary" means the Secretary of Labor, U.S. Department of Labor (USDOL), the Assistant Secretary of Labor for Employment and Training, USDOL, or any person specifically designated by either of them.

"Sponsor" means any person, corporation, association, committee, or organization operating an apprenticeship program and in whose name the program is approved and registered. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-2)

§12-31-2 Scope and purpose. (a) This chapter sets forth the state plan for equal employment opportunity in apprenticeship programs which are registered with the department in accordance with chapter 372, Hawaii Revised Statutes, and chapter 30, title 12, Administrative Rules.

(b) The purpose of this state plan is to:

- (1) Promote equality of opportunity in apprenticeship programs by prohibiting discriminatory practices as cited in section 378-2, Hawaii Revised Statutes; and
- (2) Require affirmative action to provide equal opportunity in such apprenticeship programs. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-3 Equal opportunity standards. (a) Each sponsor shall:

- (1) Prohibit discriminatory practices, in accordance with section 378-2, Hawaii Revised Statutes, in the recruitment, selection, employment, and training of apprentices;
- (2) Uniformly apply apprenticeship standards, including, but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, and imposition of penalties or other disciplinary action; and
- (3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this chapter.

(b) Each sponsor shall include in its standards the following equal opportunity pledge:

"The recruitment, selection, employment, and training of apprentices during their apprenticeship shall be without discrimination on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment, provided that a sponsor may refuse to refer for employment an individual for good cause relating to the ability of the individual to perform the work in question. Affirmative action shall be undertaken to provide equal employment opportunity in apprenticeship and the apprenticeship program shall be operated as required under chapter 31, title 12, Administrative Rules."

(c) A sponsor of a program seeking registration with the department shall take the following actions:

- (1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed in subsection (b);
- (2) Adopt an affirmative action plan required by section 12-31-4; and
- (3) Adopt a selection procedure required by section 12-31-6. A sponsor adopting a selection method under section 12-31-7, 12-31-8, or 12-31-9 shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plan, and selection procedure. A sponsor adopting a selection method under section 12-31-10 shall submit to the department copies of its standards, affirmative action plan, and selection procedure in accordance with the requirements of that section.

(d) A sponsor shall not be required to adopt an affirmative action plan under section 12-31-4 or a selection procedure under section 12-31-6 if it submits to the department satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship, including goals and timetables for women and minorities which have been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended, and its implementing regulations published in title 29, CFR; chapter XIV (Equal Employment Opportunity Commission Rules and Regulations) or Executive Order 11246, as amended, and its implementing regulations of title 41, CFR, chapter 60.

(e) A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under section 12-31-4 or a selection procedure under section 12-31-6, provided that such a program was not adopted to circumvent the requirements of this chapter. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-4 Affirmative action plans. (a) A sponsor's commitment to equal opportunity in the recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(b) Affirmative action is not mere passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices, including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the nation's labor force.

(c) An acceptable affirmative action plan shall also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase the participation of minorities and women in apprenticeship by expanding their opportunities of becoming eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all the listed activities in

its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor shall be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this chapter. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below:

- (1) Dissemination of information concerning the nature of the apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually. Such information shall be given to the department, local schools, employment service offices, women's centers, outreach programs, and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and in the general areas in which the program sponsor operates;
- (2) Participation in workshops that familiarize school, employment service, and other appropriate personnel with the apprenticeship system and current opportunities therein;
- (3) Cooperation with the state department of education and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs;
- (4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this chapter;
- (5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeship; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence, the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the USDOL. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to encourage and prepare women to enter traditionally male programs;
- (6) Encouraging the establishment and utilization of programs of preapprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship. A sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program;

- (7) Utilization of journeyworkers to assist in the implementation of the sponsor's affirmative action program;
- (8) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally; and
- (9) Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status, or arrest and court record. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-5 Goals and timetables. (a) The following shall apply in the establishment of goals and timetables:

- (1) A sponsor adopting a selection method under section 12-31-7 or 12-31-8, which determines on the basis of the analysis described in subsection (b) that it has deficiencies in terms of underutilization of minorities or women, or both, in the craft or crafts represented by the program, shall include in its affirmative action plan percentage goals and timetables for the admission of minority or female applicants, or both, into the eligibility pool;
 - (2) A sponsor adopting a selection method under section 12-31-9 or 12-31-10, which determines on the basis of the analysis described in subsection (b) that it has deficiencies in terms of the underutilization of minorities, or women, or both, in the craft or crafts represented by the program, shall include in its affirmative action plan percentage goals and timetables for the selection of the underutilized groups of applicants for the apprenticeship program;
 - (3) "Underutilization" as used in this chapter refers to the situation where there are fewer minorities or women, or both, in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subsection (b). Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established;
 - (4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan and fails to provide an explanation thereof, or submits goals and timetables which are unacceptable, the department shall establish goals and timetables applicable to the sponsor for the admission of minority or female applicants, or both, into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.
- (b) The sponsor's determination as to whether goals and timetables should be established shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan:

- (1) The size of the working age minority and female population in the program sponsor's labor market area;
- (2) The size of the minority and female labor force in the program sponsor's labor market area;
- (3) The percentage of minority and female participation as apprentices in the particular craft as compared with the percentage of minorities and women in the labor force in the program sponsor's labor market area;
- (4) The percentage of minority and female participation as journeymen workers employed by the employer or employers participating in the program as compared with the percentage of minorities and women in the labor force in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and
- (5) The general availability of minorities and women with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(c) The goals and timetables shall be established on the basis of the sponsor's analyses of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women are acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women was underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor shall consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under the goals and timetables requirements, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than fifty percent of the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women in the preceding class.

(d) The department shall make available to program sponsors data and information on minority and female labor force characteristics for each standard metropolitan statistical area and for other special areas as appropriate. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-6 Selection of apprentices. In addition to the development of a written affirmative action plan to ensure that minorities and women have an equal opportunity in apprenticeship, each sponsor shall

further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in section 12-31-7, 12-31-8, 12-31-9, or 12-31-10. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-7 Selection on basis of rank from pool of eligible applicants. (a) A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subsection (c) on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between the rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in guidelines on employee selection procedures published in title 41, CFR, part 60-3.

(b) The sponsor adopting this method of selecting apprentices shall meet the requirements of subsections (c) through (g).

(c) A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age; provided that any additional qualification standards conform with the following requirements:

(1) The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in title 41, CFR, part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool;

(2) Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool and performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in title 41, CFR, part 60-3. The requirements of this paragraph shall also be applicable to aptitude tests utilized by a program sponsor which are administered by the state employment service, or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee shall not be approved by the department unless such test meets the requirements of this paragraph;

(3) All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of title 41, CFR, part 60-3. School records or a passing grade on the general education development tests recognized by the state board of education or University of Hawaii shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(d) Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, the applicant may be required to submit to an oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant;

(e) All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program a notice of rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant;

(f) The sponsor shall establish, where required by section 12-31-5, percentage goals and timetables for the admission of minorities and women into the pool of eligibles in accordance with the provisions of that section;

(g) A sponsor shall be deemed to be in compliance with its commitments under subsection (f) if it meets its goals or timetables or if it makes good faith efforts to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments. All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-8 Random selection from pool of eligible applicants. (a) A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the department. Supervision of the random selection process shall be by one or more impartial persons selected by the sponsor, but not associated with the administration of the apprenticeship program.

The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(b) The sponsor adopting this method of selecting apprentices shall meet the requirements of section 12-31-7(c) through (e) relating to the creation of a pool of eligibles, oral interviews, and notification of applicants.

(c) The sponsor shall establish, where required by section 12-31-5, percentage goals and timetables for the admission of minorities and women into the pool of eligibles in accordance with the provisions of that section.

(d) Determinations as to the sponsor's compliance with its obligations under this chapter shall be in accordance with the provisions of section 12-31-7(g). [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-9 Selection from pool of current employees. (a) A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where one exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of section 12-31-5, that it does not have deficiencies in terms of underutilization of minorities or women, or both, in the apprenticeship of journeyworker crafts represented by the program.

(b) Determination as to the sponsor's compliance with obligations under this chapter shall be in accordance with the provisions of section 12-31-7(g). [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-10 Alternative selection methods. (a) A sponsor may select apprentices by means of any other method, including its present selection method, provided that the sponsor meets the following requirements:

(1) The sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by section 12-31-5:

(A) Its percentage goals and timetables for the selection of minority or female applicants, or both, for apprenticeship; and

(B) Its written analysis, upon which such goals and timetables, or lack thereof, are based.

(C) The establishment of goals and timetables shall be in accordance with the provisions of section 12-31-5.

The sponsor shall not implement any such selection method until the department has approved the selection method as meeting the requirements of this chapter and has approved the remainder of its affirmative action program including its goals and timeta-

bles. If the department fails to act upon the selection method and the affirmative action program within thirty days of its submission, the sponsor then may implement the selection method.

- (2) Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept, including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgement. In applying any such standards, the sponsor shall meet the requirements of title 41, CFR, part 60-3.

(b) Determinations as to the sponsor's compliance with its obligations under this chapter shall be in accordance with the provisions of section 12-31-7(g). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action programs to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the department, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities or women, or both, for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of section 12-31-7(c)(1) or this subsection. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-11 List of eligibles and public notice. (a) The sponsor shall establish a reasonable period of not less than two weeks for accepting applications for admission to an apprenticeship program. There shall be at least thirty days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see section 12-31-4(c) on affirmative action with respect to dissemination of information).

(b) Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of two years. Applicants may be removed from the list at an earlier date at their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested.

(c) Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry to report for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of the applicant's current mailing address. Upon request, a sponsor may restore to the list of eligibles appli-

cants who have been removed from the list or who have failed to respond to an apprentice job opportunity. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-12 Complaint procedure. (a) Any complaint concerning discrimination or other equal opportunity matters shall be submitted, processed, and resolved in accordance with state or federal equal employment opportunity laws.

(b) Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-13 Records. (a) The records pertaining to individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female participants. Each sponsor shall keep adequate records for a period of five years, including:

- (1) A summary of the qualifications of each applicant;
- (2) Basis for evaluation and for selection or rejection of each applicant;
- (3) Records pertaining to interviews of applicants;
- (4) The original application for each applicant;
- (5) Information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, cancellation, rates of pay or other forms of compensation, hours of work, and, separately, hours of training provided; and
- (6) Any other records pertinent to a determination of compliance with this chapter, as may be required by the department.

(b) Each sponsor shall retain a statement of its affirmative action plan required by section 12-31-4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of that section. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(c) Each sponsor shall maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in this chapter.

(d) The department shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with this chapter, as may be required by the USDOL, and shall report to the USDOL as may be required.

(e) The records required by this chapter and any other information relevant to compliance with these rules shall be maintained for five years and made available upon request to the department, USDOL, or other authorized representatives. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-14 Compliance reviews. (a) The department shall regularly conduct a systematic review of apprenticeship programs in

order to determine the extent to which sponsors are complying with this chapter and shall also conduct compliance reviews, when circumstances so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this chapter. Compliance reviews shall consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

(b) Sponsors seeking new registrations or reregistrations shall be subject to a compliance review by the department, as described in subsection (a), as part of the registration process.

(c) Where the compliance review indicates that the sponsor is not operating in accordance with this chapter, the department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under section 12-31-17. In the case of sponsors seeking new registration, the department shall provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-15 Noncompliance with federal and state equal opportunity requirements. A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with federal or state laws or rules requiring equal opportunity may be grounds for the imposition of sanctions in accordance with section 12-31-17 if such noncompliance is related to the equal employment opportunity of current or former apprentices, or both, of such an apprenticeship program under this chapter. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-16 Adjustments in schedule for compliance review or complaint processing. If in the judgement of the department a particular situation requires special processing and determination, the department shall take the steps necessary to permit such determination if it finds that no person or party affected by the determination will be prejudiced by the special processing. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-17 Sanctions. (a) Where, as a result of a compliance review or other reason, the department determines that:

- (1) There is reasonable cause to believe that an apprenticeship program is not operating in accordance with this chapter; and
- (2) Voluntary corrective action has not been taken by the program sponsor;

the department shall institute proceedings to deregister the program or it shall refer the matter for investigation to the Equal Employment Opportunity Commission or to the enforcement division of the department under chapter 378, Hawaii Revised Statutes.

(b) Deregistration proceedings shall be conducted in accordance with section 12-30-9, Administrative Rules.

(c) If a hearing is requested, the hearing shall be conducted in accordance with section 12-30-10, Administrative Rules. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-18 Reinstatement of program registration. Any apprenticeship program deregistered pursuant to this chapter may be reinstated upon presentation of adequate evidence to the director that the apprenticeship program is operating in accordance with this chapter. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-19 Retaliatory acts or intimidation. Any intimidation, threat, coercion, or retaliation by, or with the approval of, any sponsor against any person for the purpose of interfering with any right or privilege of that person secured by chapter 378, Hawaii Revised Statutes; or title VII of the Civil Rights Act of 1964, as amended; or Executive Order 11246, as amended; or because a person has made a complaint, testified, assisted, or participated in any manner in any investigation proceeding or hearing under this chapter shall be considered noncompliance with the equal opportunity standards of this chapter. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this chapter, including the conduct of any investigation, hearing, or judicial proceeding arising therefrom. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-20 Nondiscrimination. The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status, or arrest and court record. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-21 Exemptions. Requests for exemption from this chapter, or any part thereof, shall be made in writing to the director and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause. The department shall notify the USDOL of any such exemptions granted affecting a substantial number of employers and the reasons therefor. [Eff. Jul 30 1981] (Auth: HRS §372-5) (Imp: HRS §372-5)